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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,720	06/19/2001	Pierfrancesco La Mura	COM-003CIA	3300
758	7590	01/30/2006	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			FELTEN, DANIEL S	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/885,720	Applicant(s) LA MURA ET AL	
	Examiner Daniel S. Felten	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-17, 24-26 and 62-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-17, 24-26 and 62-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/24/2004 & 06/19/2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the amendment filed November 14, 2005 amending claims canceling claims 18 - 23 and amending claims 10 - 14, 24 - 26 and 62 - 64. Claims 10-17, 24-26 and 62-65 are pending in the application and are presented for examination.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on June 19, 2001 and June 24, 2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

3. Applicant's arguments with respect to claims 10-17, 24-26, and 62-65 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. The applicant has provided an independent apparatus claim with dependent method claims (see claims 24-26) apparatus and method limitations within the claims. The applicant can not have a dependant claim of a different statutory than the independent claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-17, 24-26, and 62-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 5,794,219) in view of Walker (US 5,862,223)

Brown discloses, an online auction system servicing at least one seller and at least one bidder (see Abstract),

An interface module and transaction module(76—bid entry form)

in a processing device a product for a team (or tournament) auction system (see figs. 7-10)-*claims 10*

Partition participants into teams [110, 661] wherein a team comprises team members (38) (see col. 6, 11. 53 to col. 8, 11. 59)- *claims 10*

Determine a team bid and aggregating bids of team members (see col. 6 11. 65 to col. 7. 11. 5; and col. 8, 11. 4-18)-*claims 10, 11, 12, 14, 26*

Determine a winning team based on said team bid allocate items to said team (see col. 8, 11. 36-46) -*claims 10, 13, 23*

A media readable by said processing device that stores said instructions (see col. 6, 11.

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4 1+)- *claim 10*

A participant chooses a team at the beginning of the team auction (see col. 6, ll. 25-40)-
claim 15

Brown fails to disclose proceeding to at least an additional round. Walker discloses an auctioning embodiment where the end users create request and submit them to a central controller. The request are submitted to a pool of bidders which bid over a number of rounds (see Walker col. 38, ll. 12+). It would have been obvious for an artisan at the time of the invention of Brown to recognize the advantages of multi-round auction to provide the bidders with a more than one shot to acquire a good and/or service. Thus an artisan of ordinary skill at the time of the invention would have been motivated to provide a greater opportunity for competing bidders to acquire goods and services as well as provide the seller with a better price for the good or service.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF
January 20, 2006

Daniel S Felten
Examiner
Art Unit 3624

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

